

SARA TITLE III SECTION 313 INSPECTION REPORT
12-313U-015

I. **Date of Inspection:** July 17, 2012

II. **Facility:** Haysite Reinforced Plastic
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

Facility Description: The facility is located in an industrial area. The size of the facility is approximately 102,000 square feet. The building appears to be maintained in good condition. The grounds are neat and well kept. The walkthrough indicated that housekeeping could be improved.

NAICS: 326130

Process: A process flow diagram is presented as Attachment C3.

III. **EPA Inspector:**

Abraham Reich
Environmental Engineer/Inspector
Toxics Programs & Enforcement Branch (3LC33)
(215) 814-2157

IV. **Company Officials:**

Brian Hardy
Compliance/Quality Manager
814-868-3691 Ext. 211

Sarah Passerotti
Safety & Environmental Compliance Coordinator
814-868-3691 Ext. 236

V. **Purpose of Inspection:**

This inspection was conducted to examine, document, and verify the facility's compliance with the reporting requirements stated in 40 C.F.R. Part 372 under Section 313 of SARA Title III.

VI. Sara Title III:

A plant, factory, or other facility comes under the provisions of Section 313 if it meets all three of the following criteria;

1. The facility is included in Standard Industrial Classification (SIC) codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20 to 39, 4911, 4931, 4939 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under the RCRA Subtitle C, 42 U.S.C. Section 6921 *et seq.*), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvents recovery services on a contract or fee basis); and

1a. Starting with calendar year 2006 EPCRA Section 313 reporting, The TRI Program required the use of North American Industry Classification System (NAICS) codes. The NAICS is the economic classification system that replaces the 1987 SIC code system. A Federal Register Notice was published on June 6, 2006 (71 FR 32464) adopting NAICS codes for TRI reporting. A subsequent Federal Register notice was published on June 9, 2008 (73 FR 32466) to incorporate 2007 OMB revisions and other corrections to the NAICS codes used for TRI reporting.

2. It has 10 or more full-time employees (or the equivalent 20,000 hours per year). And

3. It manufactures (including imports), or processes, or otherwise uses a listed toxic chemical during any calendar year in amounts greater than the threshold quantities specified below.

Thresholds are specific amounts of toxic chemicals used during the calendar year that triggers reporting requirements.

1. If a listed toxic chemical is manufactured, imported or processed, the threshold quantity is **25,000 pounds** per toxic chemical or category over the calendar year.

2. If a listed toxic chemical is otherwise used (without incorporating it into any product or producing it at the facility), the threshold quantity is **10,000 pounds** per toxic chemical or category over the calendar year.

3. **Starting with calendar year 2000**, manufactured, processed, or “otherwise-use” thresholds of these additional chemicals also called Persistent Bioaccumulative Toxic Chemicals (PBT) are as follows;

100 pounds - aldrin, methoxychlor, pendimethalin, polycyclic aromatic compounds, tetrabromobisphenyl A, trifluralin;

10 pounds - chlordane, heptachlor, mercury, mercury compounds, toxaphene, isodrin, polychlorinated biphenyls, benzo(g,h,i)perylene, hexachlorobenzene, octachlorostyrene, pentachlorobenzene;

0.1 grams - dioxin and dioxin – like compounds

4. **Starting with calendar year 2001**, manufactured, processed, or “otherwise-use” of the chemical lead in amounts greater than or equal to the amounts specified, a Form R is required;

100 pounds - Lead which is not contained in stainless steel, brass, or bronze alloy.

100 pounds - lead compounds.

VII. Opening Conference:

1. Inspection Procedures and General Information:

On July 17, 2012, a Section 313 inspection was conducted at Haysite Reinforced Plastic. On May 30, 2012, prior to the inspection, a letter was sent to the company confirming the date of the inspection. Subsequent to this letter, a second letter was sent June 18, 2012 rescheduling the inspection and requesting the availability of documentation (attachment C2). The EPA inspector met with company representatives at 0900. The inspector's credentials were presented and a Notice of Inspection was presented and explained (Attachment A). Mr. Hardy signed the notice and an outline of the areas to be investigated was discussed.

VIII. Summary:

Section 313 was the primary focus of the inspection. The facility was telephoned May 29, 2012, prior to the inspection, to determine if an inspection was warranted (attachment C1). A copy of the notice of inspection was sent to the Superfund Removal Branch to allow them the option to further investigate compliance with Sections 302, 311, and 312 at their discretion.

Mr. Hardy stated that the plant's primary NAICS Code is 326130. The remainder of the inspection involved determining if the plant manufactured, processed, or otherwise used any one of the listed toxic chemicals in excess of the threshold in calendar year 2010. The facility had filed for 2008 and 2009.

The number of employees and sales for the years being examined are as follows:

	2008	2009	2010	2011
Employees: (approximately)	95	87	82	83
Sales: (approximately)	21.3MM	18.2MM	18.9MM	23.1M

For the inspection, they had compiled summaries of usages of Section 313 chemicals as shown in attachment C4. Section 313 chemicals are summarized as follows:

<u>CAS Number</u>	<u>Chemical</u>	<u>Usage in Pounds</u>			
		08	09	10	11
100-42-5	Styrene	-	-	1,612,662	-

Note: Form R's have been filed for the years 2008, 2009, and 2011

IX. Closing Conference:

Appropriate documents were requested by the EPA Inspector and the SARA Title III Section 313 investigation was concluded. Receipts for samples and documents were completed (attachment B) at the conclusion of all inspection activities.



NOTICE OF INSPECTION
U.S. ENVIRONMENTAL PROTECTION AGENCY
Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)

1. INVESTIGATION IDENTIFICATION

2. TIME

DATE 7-17-12	INSPECTOR NO. EY10-004	DAILY SEQ. NO. 0900
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INSPECTOR ADDRESS U.S. EPA REGION III (3LC61)
1650 ARCH STREET
PHILADELPHIA, PA 19103

HAYSITE REINFORCED PLASTIC
5599 New Perry Highway
Erie Pennsylvania 16509-3562

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with the Emergency Planning and Community Right-to-Know Act of 1986, Section 313 toxic chemical release reporting requirements. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical manufacturing, importing, processing, and/or use facilities, including waste handling and treatment operations; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

INSPECTOR SIGNATURE <i>Abraham Reich</i>		RECIPIENT SIGNATURE <i>Brian Hardy</i>	
NAME ABRAHAM REICH		NAME Brian Hardy	
TITLE INSPECTOR	DATE SIGNED 7-17-12	TITLE Compliance / Quality Manager	DATE SIGNED 7/17/2012

U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460Superfund Amendments and Reauthorization Act - Title III
Emergency Planning and Community Right-to-Know Act of 1986Form Approved,
OMB No. 2070-0007

RECEIPT FOR SAMPLES AND DOCUMENTS

1. INVESTIGATION IDENTIFICATION

DATE 7-17-12 INSPECTOR NO. FY10-004
DAILY SEQ. NO.
INSPECTOR ADDRESSU.S. EPA REGION III
TOXICS PROGRAMS BRANCH (3LC61)
1650 ARCH STREET
PHILADELPHIA, PA 19103

2. FIRM NAME

HAYSITE REINFORCED PLASTIC
5599 New Perry Highway
Erie Pennsylvania 16509-3562

The documents and samples of chemical substances and/or mixtures described below were collected in connection with the administration and enforcement of the Emergency Planning and Community Right-to-Know Act of 1986.

RECEIPT OF THE DOCUMENT(S) AND/OR SAMPLE(S) DESCRIBED IS HEREBY ACKNOWLEDGED:

NO.	DESCRIPTION
001	rept-CDX for 2011 Form R filing
002	2010 Styrene usage

Chemical identities for underlined items have been claimed as trade secret. The facility official requesting such treatment has read and understands EPCRA Section 322 and pertinent trade secret regulations and understands EPCRA Section 325 which provides for (among other things) penalties for frivolous claims.

INSPECTOR SIGNATURE 		RECIPIENT SIGNATURE 	
NAME ABRAHAM REICH		NAME Brian Hardy	
DATE SIGNED 7-17-12	TITLE Inspector	DATE SIGNED 7-17-12	TITLE Compliance/Quality

ATTACHMENT C

EPA Region III Initial Telephone Call Record

Date of Call: 5-29-2012

Facility Name: Hayrite Reinforced Plastic

Facility Address: 5599 New Perry Hwy
Exton PA 19341-3562

County: Exe

Phone Number: 814-868-3691 x 211

Facility Contact: Brian Hardy - Head Exe Compliance Group

Inspector Making Call: A. Reich

NAICS: 326130 Emp.: 85 Fac. Size: 166 K ft square \$

Call:

Send Info.:

1) Are you familiar with SARA Title III? Yes No
(If yes, move to question 2. If no, give a brief explanation).

2) Are you familiar with Section 313 of SARA Title III? Yes No

3) Did you report under Section 313 for the 2011 Reporting Year? Yes ✓ No

4) Did you report under Section 313 for the 2010 Reporting Year? Yes ✓ No

5) Did you report under Section 313 for the 2009 Reporting Year? Yes No ✓

6) Business: closed June 19 at 9 AM



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

June 18, 2012

Mr. Brian Hardy
Haysite Reinforced Plastic
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

RE: Superfund Amendments and Reauthorization Act (SARA) Title III Section 313 Inspection

Dear Mr. Hardy:

This letter is to confirm the rescheduling of the June 19, 2012, 9:00 a.m. to July 17, 2012 at 9:00 a.m., U.S. Environmental Protection Agency (EPA), Region III inspection at your facility. This inspection will be conducted pursuant to the Emergency Planning and Community Right-to-Know Act (EPCRA). EPA's primary focus during this inspection will be to gather information regarding compliance with Section 313 of EPCRA.

The inspection will be conducted by Mr. Abraham Reich. Mr. Reich is assisting the EPA under a cooperative agreement with the Senior Service America, Incorporated (SSAI) as part of the Senior Environmental Employment (SEE) Program. Part of the technical assistance that Mr. Reich provides to the EPA is inspection services under my direction and monitoring pursuant to EPCRA, SARA Title III. As a SEE enrollee, Mr. Reich is authorized by EPA to have access to Confidential Business information (CBI), and has signed a Non-Disclosure agreement regarding such information.

To save time during the inspection, please have available for review and collection by the inspector copies of the following documents for the **2008, 2009, 2010 and 2011** calendar years:

- Names and Chemical Abstract Service (CAS) numbers of all EPCRA Section 313 chemicals used, number of employees, sales for the years specified above, and the size of the facility (square feet);
- Annual usage summaries (pounds) of each EPCRA Section 313 chemical with supporting documentation for each year indicated above (supporting documentation should include such items as beginning and end of year inventory, purchase records, and if applicable, import records);
- Chemical production records for all Section 313 chemicals or chemical categories manufactured, processed, or otherwise used at your facility.

Note: If your facility manufactures, processes, or otherwise uses mixtures which contain Section 313 chemicals, please provide for each of these mixtures a copy of the Material Safety Data Sheet (MSDS), or other written notification which specifies the chemical composition of the mixture.

In addition to the above items, **please provide a brief summary of your manufacturing process** and notify Mr. Reich of any safety equipment (e.g. eye or ear protection, safety shoes, hard hat, etc.) he should bring with him to the inspection. If time permits, he will tour your plant. Should you have any questions, please call Mr. Reich at (215) 814-2157.

Sincerely,

Craig E. Yussen
EPCRA Section 313 Compliance Coordinator
EPA Region III

Attachment: EPCRA Fact Sheet, Section 313 chemical list, and SBREFA Information Sheet
cc w/o Attachments: Section 313 State contact EPA: Perry Pandya (3HS61)



12-3134-015

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

May 30, 2012

Mr. Brian Hardy
Haysite Reinforced Plastic
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

RE: Superfund Amendments and Reauthorization Act (SARA) Title III Section 313 Inspection

Dear Mr. Hardy:

This letter is to confirm that on June 19, 2012 at 9:00 a.m., the U.S. Environmental Protection Agency (EPA), Region III will conduct an inspection at your facility. This inspection will be conducted pursuant to the Emergency Planning and Community Right-to-Know Act (EPCRA). EPA's primary focus during this inspection will be to gather information regarding compliance with Section 313 of EPCRA.

The inspection will be conducted by Mr. Abraham Reich. Mr. Reich is assisting the EPA under a cooperative agreement with the Senior Service America, Incorporated (SSAI) as part of the Senior Environmental Employment (SEE) Program. Part of the technical assistance that Mr. Reich provides to the EPA is inspection services under my direction and monitoring pursuant to EPCRA, SARA Title III. As a SEE enrollee, Mr. Reich is authorized by EPA to have access to Confidential Business information (CBI), and has signed a Non-Disclosure agreement regarding such information.

To save time during the inspection, please have available for review and collection by the inspector copies of the following documents for the **2008, 2009, and 2010** calendar years:

- a. Names and Chemical Abstract Service (CAS) numbers of all EPCRA Section 313 chemicals used, number of employees, sales for the years specified above, and the size of the facility (square feet);
- b. Annual usage summaries (pounds) of each EPCRA Section 313 chemical with supporting documentation for each year indicated above (supporting documentation should include such items as beginning and end of year inventory, purchase records, and if applicable, import records);
- c. Chemical production records for all Section 313 chemicals or chemical categories manufactured, processed, or otherwise used at your facility.

Note: If your facility manufactures, processes, or otherwise uses mixtures which contain Section 313 chemicals, please provide for each of these mixtures a copy of the Material Safety Data Sheet (MSDS), or other written notification which specifies the chemical composition of the mixture.

In addition to the above items, **please provide a brief summary of your manufacturing process** and notify Mr. Reich of any safety equipment (e.g. eye or ear protection, safety shoes, hard hat, etc.) he should bring with him to the inspection. If time permits, he will tour your plant. Should you have any questions, please call Mr. Reich at (215) 814-2157.

Sincerely,

Craig E. Yussen
EPCRA Section 313 Compliance Coordinator
EPA Region III

Haysite Reinforced Plastics
Process Flow
07-17-2012

Receiving Material:
Material is received in Bulk delivered to tanks. Fillers are received super sacks and in 50 pound bags.



Inspection:
Material is inspected by quality prior to being received into inventory.



Mix Room:
Resin, filler, Catalyst, and pigment are combined for the molding process.



Molding:
Haysite is a thermoset molder using 3 processes.



Pultrusion: Glass is pulled through a resin bath then through a die to form sheet and profiles.
Compression Sheet: Glass is placed onto a mold – resin is added to the glass and then the sheet is compression molded to complete the thermoset cycle.
BMC/SMC: charges are cut, weighed, and place into a mold. The mold then creates a finite shape through the thermoset process.



Inspection:
Product is put through standardized inspection prior to being put into inventory.



Warehouse:
Product is stored in preparation for shipping.



Shipping:
Product is sent to the customer.

[illegible]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL RETURN RECEIPT REQUESTED

NOV 08 2012

Mr. Brian Hardy
Compliance/Quality Manager
Haysite Reinforced Plastics Co.
5599 New Perry Highway
Erie, PA 16509

Re: Alleged violation of Section 313 of the Emergency Planning
and Community Right-to-Know Act, 42 U.S.C. § 11023

Dear Mr. Hardy:

The United States Environmental Protection Agency, Region III, ("EPA") has reason to believe that Haysite Reinforced Plastics Co. ("Haysite") has violated Section 313 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11023, and the regulations promulgated thereunder and published in 40 C.F.R. Part 372.

According to the results of EPA's July 17, 2012 inspection (a copy of the inspection report narrative has been enclosed) of Haysite's facility at 5599 New Perry Highway, Erie, Pennsylvania 16509 ("Facility"), Haysite processed more than 25,000 pounds of the toxic chemical, styrene, during 2010 at its Facility. Therefore, Haysite was required to submit a Toxic Chemical Release Inventory Report ("Form R" or "TRI Form") to EPA and the Commonwealth of Pennsylvania for its processing of styrene in 2010 at its Facility on or before July 1 of 2011. According to EPA's information and records, Haysite failed to submit a Form R for its processing of styrene in 2010 at its Facility by this deadline. Haysite's failure to timely file a Form R for styrene for calendar year 2010 violated the reporting requirements specified in EPCRA § 313 and 40 C.F.R. Part 372. Violations of EPCRA § 313 are subject to a civil penalty up to \$37,500 per day for violations occurring after January 12, 2009. See 42 U.S.C. § 11045 and 40 C.F.R. Part 19 and § 372.18.

EPA is planning to file an administrative complaint seeking a penalty determined in accordance with: 1) the *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)* ("Penalty Policy") (August 10, 1992), a copy of which is enclosed, and 2) the inflation adjustments for violations of EPCRA occurring after January 12, 2009 detailed in *Revision to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009* (April 6, 2010) ("Inflation Adjustments"), a copy of which is enclosed. Based on EPA's review of the Penalty Policy and Inflation Adjustments, EPA has determined that a total penalty of \$37,500 is appropriate for the alleged violation. This proposed penalty does not constitute a "demand" as

that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412.

In this case, rather than proceed directly to issuing a complaint, EPA is inviting Haysite to confer either in person or via telephone to discuss the circumstances of the violation, its discovery and disclosure, and possible settlement. In such a "show cause" conference, Haysite should present any additional information that it wants EPA to consider. If EPA and Haysite agree to settle prior to the filing of a complaint, the penalty would be reduced to reflect the reduced transaction costs of settling without litigation. Any agreement in principle would be memorialized in a consent agreement and final order, which, when filed, would commence and conclude the case simultaneously. This process is allowed by the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, 40 C.F.R. Part 22, a copy of which is enclosed. If EPA and Haysite are unable to agree to a settlement and a complaint is filed, Haysite will have the right to request a hearing on the facts and penalty, as explained in 40 C.F.R. § 22.14.

If Haysite submits information concerning the alleged violation, pursuant to the regulations set forth at 40 C.F.R. Part 2, Subpart B, Haysite is entitled to assert a business confidentiality claim covering any part of the submitted information, subject to EPA's evaluation of the information's confidential status. Unless such a confidentiality claim is asserted at the time the required information is submitted, EPA may make this information available to the public without further notice to Haysite. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in the above-cited regulations. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. § 2.203(b).

Haysite must also include as part of any submission of information or documentation to EPA pursuant to this Request to Show Cause the following signed and dated certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response to Information Request and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fine and/or imprisonment."

Signature: _____
Printed Name: _____
Title: _____

For your further information, please be advised that certain companies may be required to disclose to the Securities and Exchange Commission ("SEC") the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under Federal, State or local environmental laws. Please see the enclosed *Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings* for more

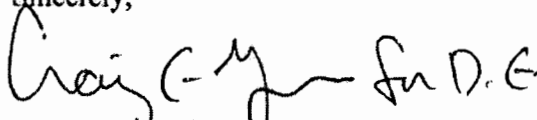
information about this requirement and to aid you in determining whether your company may be subject to the same.

EPA has made no determination whether or not Haysite is a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please see the enclosed Small Business Information Sheet. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve Haysite of its obligation to respond in a timely manner to an EPA information request or other enforcement action and does not create any new rights or defenses under law.

If you wish to take advantage of this opportunity for a "show cause" conference to discuss the above identified violation prior to the filing of a complaint, EPA requests that Haysite contact Mr. Scott Rice at 304-231-0501 **within fourteen (14) calendar days** after receipt of this letter. If Haysite will be represented by counsel, please have her/him contact Ms. Dominique Freyre, Assistant Regional Counsel, at 215-814-2614 **within fourteen (14) calendar days** after receipt of this letter. Alternatively, if you are not interested in further discussing this matter prior to the filing of a complaint, please notify Mr. Rice within this fourteen (14) calendar day time frame.

Thank you for your cooperation and attention to this matter.

Sincerely,



Demian Ellis, Acting Chief
Toxics Programs Branch

Enclosures: EPA Inspection Report Narrative
Penalty Policy
Inflation Adjustments
Consolidated Rules of Practice, 40 C.F.R. Part 22
Notice of SEC Registrants' Duty to Disclose Environmental Legal Proceedings
Small Business Information Sheet

cc: Scott Rice (3LC61)
Dominique Freyre (3RC30)

RECEIVED

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

2013 MAR 27 AM 9:38
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:

Haysite Reinforced Plastics
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

Docket No. EPCRA-03-2013-0065

Respondent

CONSENT AGREEMENT

Haysite Reinforced Plastics
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

Facility

Proceeding under EPCRA §325(c),
42 U.S.C. § 11045(c)

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Haysite Reinforced Plastics ("Respondent"), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA § 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively, "CAFO"), simultaneously commence and conclude this proceeding to resolve the violation of EPCRA § 313, 42 U.S.C. § 11023, as alleged herein, by Respondent at its facility located at 5599 New Perry Highway, Erie, Pennsylvania 16509-3562.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in Paragraph 1, above, Respondent neither admits nor denies the specific

factual allegations and legal conclusions set forth in this CAFO.

3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

Findings of Fact and Conclusions of Law

7. In accordance with Sections 22.13(b) and .18(b)(2) of the Consolidated Rules, Complainant adopts the following findings of fact and conclusions of law.
8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that: 1) has 10 or more employees; 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3900] (as in effect on July 1, 1985), or other SIC or industry code as set forth in 40 C.F.R. Section 372.22(b); and 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.
9. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
10. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" to include any corporation.
11. Respondent is incorporated in the Commonwealth of Pennsylvania and is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
12. Respondent owns and operates, and at the time of the violation alleged herein, owned and operated, a manufacturing plant located at 5599 New Perry Highway, Erie, Pennsylvania, 16509-3562 ("Facility").

13. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.
14. During the 2010 calendar year, Respondent employed 10 or more full-time employees at the Facility.
15. During the 2010 calendar year, the Facility had a SIC code of 3083.
16. Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed, or otherwise used at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, to EPA and the Commonwealth of Pennsylvania by July 1 of the following calendar year.

Count I – Styrene 2010

17. The allegations of Paragraphs 1 through 16, above, are incorporated by reference as though fully set forth herein.
18. "Styrene" is a "toxic chemical" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
19. As set forth in 40 C.F.R. § 372.25, the reporting threshold amount for styrene which is processed at a facility is 25,000 pounds.
20. Respondent processed more than 25,000 pounds of styrene at the Facility during the 2010 calendar year.
21. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2011, a completed Form R or Form A for the styrene processed at the Facility during the calendar year 2010.
22. Respondent filed a complete Form R or Form A for the toxic chemical styrene processed at the Facility during calendar year 2010 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about July 18, 2012.
23. Respondent's failure to timely file a complete Form R or Form A to EPA or the Commonwealth of Pennsylvania for the toxic chemical styrene processed at the Facility during calendar year 2010, by July 1, 2011, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

Settlement

24. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313, 42 U.S.C. § 11023, shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (73 Fed. Reg. 75340-46 (December 11, 2008)), violations of Section 313 of EPCRA, 42 U.S.C. § 11023, which occurred between March 16, 2004 and January 12, 2009, are subject to an increased statutory maximum penalty of \$32,500 per violation and the maximum inflation-adjusted penalty for violations occurring after January 12, 2009 is \$37,500 per violation.
25. In settlement of EPA's claims for civil monetary penalties for the violation alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of TWENTY-SIX THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$26,250.00), which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by all parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
26. The aforesaid settlement amount set forth in Paragraph 25, above, is based on a number of factors, including, but not limited to, the facts and circumstances of this case, the statutory factors set forth in EPCRA § 325(b)(1)(C), 42 U.S.C. § 11045(b)(1)(C), and the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992), as amended. Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19 and the April 6, 2010 memorandum from EPA Waste and Chemical Division Director Rosemarie Kelley entitled *Revision to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009* ("Kelley Memorandum"). The settlement in this proceeding is consistent with the provisions and objectives of EPCRA § 313, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.
27. Respondent shall pay the civil penalty amount assessed in Paragraph 25, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 28 through 32, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2013-0065;
 - b. All checks shall be made payable to "United States Treasury";

- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Customer service contact: 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver

ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Dominique Freyre
Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

28. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or

administrative costs of handling delinquent debts.

29. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
30. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
31. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
32. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

Certification

33. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Section 313, 42 U.S.C. § 11023.

Other Applicable Laws

34. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

Reservation of Rights

35. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violation of EPCRA Section 313, 42 U.S.C. § 11023, alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has

jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

Scope of Settlement

36. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violation alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

Parties Bound

37. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

Effective Date

38. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

39. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violation alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

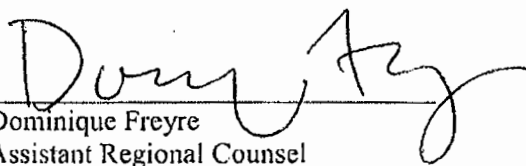
Date: 02/11/2013

By: 

Brian Hardy
Compliance/Quality Manager
Haysite Reinforced Plastics

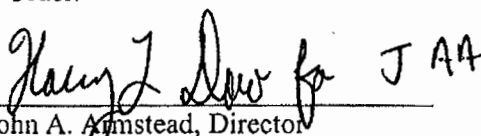
For Complainant:

Date: 2/21/13

By: 
Dominique Freyre
Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 3/15/13

By:  JAA
John A. Armstead, Director
Land and Chemicals Division

RECEIVED

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

2013 MAR 27 AM 9:38

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:

Haysite Reinforced Plastics
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

Respondent

Haysite Reinforced Plastics
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

Facility

Docket No. EPCRA-03-2013-0065

CONSENT AGREEMENT

Proceeding under EPCRA §325(c),
42 U.S.C. § 11045(c)

FINAL ORDER


Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Haysite Reinforced Plastics, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992), the statutory factors set forth in EPCRA § 325(b)(1)(C), 42 U.S.C. § 11045(b)(1)(C), and the provisions and objectives of EPCRA § 313, 42 U.S.C. § 11023.

NOW, THEREFORE, PURSUANT TO Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **TWENTY-SIX THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$26,250.00)**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 3/26/13


Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

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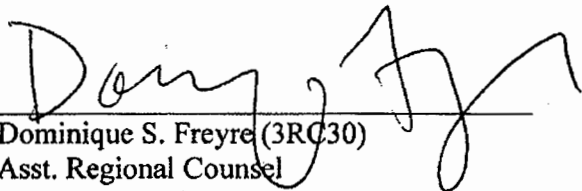
CERTIFICATE OF SERVICE

2013 MAR 27 AM 9:39

I hereby certify that the original and one copy of the Consent Agreement/Final Order, Docket No. EPCRA-03-2013-0065, have been hand delivered and filed with the EPA Region III Regional Hearing Clerk on the date below, and that a copy of the same was sent via UPS expedited delivery to the following:

Brian Hardy
Haysite Reinforced Plastics
5599 New Perry Highway
Erie, Pennsylvania 16509-3562

3/27/2013
Date


Dominique S. Freyre (3RC30)
Asst. Regional Counsel
U.S. EPA, Region III
(215) 814-2614

